

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | |
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| -----X | |
| CITY OF MIDDLETOWN, et al., | : |
| | : |
| Plaintiffs, | : |
| | : |
| -against- | : |
| | : |
| PENCOR MASADA OXYNOL, LLC, | : |
| | : |
| Defendant. | : |
| -----X | |

Civil No. 07-6572 (CLB)

**NOTICE OF PLAINTIFFS' MOTION TO REMAND TO STATE COURT AND TO STRIKE
THE DECLARATION OF NICHOLAS A. PASCALE, ESQ., IN OPPOSITION TO
PETITION**

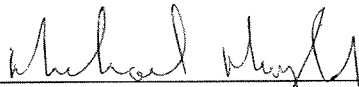
PLEASE TAKE NOTICE that, on September 28, 2007, upon the annexed Declaration of Michael Murphy, Esq., dated August 10, 2007, and the exhibits attached thereto, and the accompanying Memorandum of Law, Plaintiffs the City of Middletown and the individually named city officials will move this Court, before the Honorable Charles L. Brieant, United States District Judge, at the United States Courthouse, 300 Quarropas Street, White Plains, New York, for an order, pursuant to 28 U.S.C. §§ 1441 and 1447, remanding the above-captioned action to the New York Supreme Court, Orange County, and, in the event remand is not ordered, striking the declaration of Nicholas A. Pascale Esq. in opposition to the petition.

New York, NY

Dated: August 10, 2007

Respectfully submitted,

BEVERIDGE & DIAMOND, P.C.

By: 
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